

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes
March 17, 2005
9:30 a.m.**

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, March 17, 2005 in Nashville, Tennessee at 9:30 a.m. Commissioners John Jones, Harlan Mathews and Cynthia Bond were present. Director Danielle Elks, Assistant Director Carolyn Smith, CLEO Mark Hutchens and ASAC Andy Woodall were present from the staff.

1. The Minutes for January 18 and February 17, 2005 Commission Meeting were approved.

2. RETAIL PACKAGE STORES:

A. NEW BUSINESS

**1. WORLD WIDE LIQUORS
Memphis, Tennessee (Shelby County)**

Applicant: Christopher L. Wright

Before the Commission is a request for a new retail store to be located at 3551 Tchulahoma in Memphis, Tennessee. Mr. Christopher Wright intends to operate the business as a sole proprietorship, and make an initial investment of approximately \$8500.00 obtained from personal funds. All documentation has been submitted.

Discussion/Action Taken:

Christopher L. Wright was present. Director Elks reviewed the application and stated that all documentation had been received. Director Elks recommended approval. Commissioner Mathews made a motion to approve the application. Commissioner Bond seconded the motion and it passed with three ayes.

**2. MR. G'S GRAPE & GRAIN FINE WINE AND SPIRITS
(Current d/b/a: Grape & Grain Fine Wines & Spirits)
Memphis, Tennessee (Shelby County)**

Licensee/Seller: Kenneth Glenn

**Buyer/Applicant: Mr. G's Grape & Grain Fine Wine &
Spirits, Inc.**

Stockholders: Jerry D. Gee

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Before the Commission is a request for a transfer of ownership of the retail store located at 8057 Hwy. 64, Suite 113, in Memphis, Tennessee. Mr. Jerry Gee intends to operate the business as a corporation. The purchase price for the business is \$350,000: \$200,000 plus inventory—not to exceed \$150,000. Funding is based upon personal accounts. Further, Mr. Gee will pay to Mr. Glenn an additional \$100,000 over a three year period for Mr. Glenn to work for Mr. Gee as a consultant and independent contractor. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. Commissioner Bond made a motion to approve the application and Commissioner Mathews seconded the motion and it was approved with 3 ayes. Director Elks also stated that Mr. Gee wants to change the name from Mr. G's Grape & Grain Fine Wines & Spirits to Grape & Grain Fine Wine and Spirits. Commissioner Mathews made a motion to approve the name change and Commissioner Bond seconded the motion and it passed with 3 ayes.

3. INNSBROOKE WINE AND SPIRITS Murfreesboro, Tennessee (Rutherford County)

Applicant: Innsbrooke Wine & Spirits, Inc.
Stockholders: Winifred Howell

Before the Commission is a request for a new retail store to be located at 2930 Innsbrooke Town Center in Murfreesboro, Tennessee. Mrs. Winifred Howell intends to operate the business as a corporation, with himself as the sole stockholder. She intends to initially invest approximately \$90,000, which has been obtained from personal funds and a loan from Cavalry Bank. Issue: Ms. Howell is an employee of MTSU, and as such is a state employee. T.C.A. §57-3-210(b)(1) prohibits the issuance of a retailer's license to anyone who is a public employee—either national, state, city or county. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the Rules and Regulations;
- c. Use and Occupancy Permit; and
- d. Letter of Resignation and actual resignation of Ms. Howell from MTSU

Discussion/Action Taken:

James Mabry (Ms. Howell's brother) was present. Director Elks reviewed the application and stated that Winifred Howell was a State employee for Middle Tennessee State University and would have to resign from MTSU. James Mabry

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stated that Ms. Howell would not be resigning until the end of the semester and has requested that the application be continued until the May meeting. Director Elks stated that the staff did not object to that. Commissioner Mathews made a motion to refer the matter to the May Commission meeting. Commissioner Bond seconded the motion and it was approved with 3 ayes.

4. SPARTA PIKE SPIRITS Lebanon, Tennessee (Wilson County)

Applicant: Sparta Pike Spirits, LLC
Members: Robert W. King

Before the Commission is a request for a new retail store to be located at 1318 Sparta Pike in Lebanon, Tennessee. Mr. Robert W. King intends to operate the business as a LLC, with himself as the sole member. He intends to initially invest approximately \$50,000 which has been obtained from personal funds. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the Rules and Regulations;
- c. Use and Occupancy Permit; and
- d. Sales Tax Number.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. Director Elks recommended approval upon submission of the TABC Inspection, Acknowledgment of the Rules and Regulation, Use and Occupancy Permit and Tennessee Sales Tax number. Commissioner Mathews made a motion to approve the application upon submission of the pending documents. Commissioner Bond seconded the motion and it passed with 3 ayes.

5. CASE SELECT WINES & LIQUORS Franklin, Tennessee (Williamson County)

Applicant: Case Select Wines and Liquors, LLC
Stockholders: Thomas Michael Klaritch

Before the Commission is a request to for a new retail store to be located at 3046 Columbia Avenue, Suite 105 Parkway Commons, in Franklin, Tennessee. Mr. Thomas Michael Klaritch. Mr. Klaritch intends to operate this establishment as an LLC, with himself as the sole member. Further, he intends to initially invest approximately \$500,000. His questionnaire indicates that \$150,000 will be financed

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through a bank loan, and the remaining from personal funds. However, financial background information has not been verified at this time. All documentation has been submitted with the exception of the following:

- a. Bank Credit check;
- b. TABC Inspection;
- c. Use and Occupancy Permit;
- d. Acknowledgement of the Rules and Regulations; and
- e. Loan Agreement.

Discussion/Action Taken:

Hank Hildebrand and Thomas Michael Klaritch were present at the meeting. Director Elks reviewed the application to the Commissioners. Director Elks recommended approval pending the Bank Credit Check, TABC Inspection, Acknowledgment of the Rules and Regulations, Use and Occupancy Permit. Mr. Hildebrand advised that a loan agreement did not exist and financing would be from personal funds. Commissioner Bond made a motion to approve the application upon submission of the pending documents. Commissioner Mathews seconded the motion and it passed with 3 ayes.

6. LOU'S LIQUORS Memphis, Tennessee (Shelby County)

Licensee/Seller: Angelo Lucchesi
Applicant/Buyer: Shamrock Liquors, LLC
Members: Larry Lynch and Hugh Lynch

Before the Commission is a request for a transfer of ownership of the retail store located at 2398 Park Avenue in Memphis, Tennessee. Larry Lynch and Hugh Lynch propose to operate this business as an LLC, with each owning 50% interest. They intend to purchase the business for \$580,000 including the inventory, as well as the property for an additional \$100,000. All documentation has been submitted with the exception of the following:

- a. Deed (when obtain);
- b. Question 18 answered on the application;
- c. Loan Agreement; and
- d. Bank checks for both members from Commercial Bank and Trust.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. Director Elks recommended approval upon submission of the Deed, when obtained, Question

#18 being answered on the application, a copy of the Loan Agreement, and Bank checks for both members from Commercial Bank and Trust. Commissioner Bond made a motion to approve the application upon submission of the pending documentation. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**7. SCOTTISH SHIELD LIQUORS
Dickson, Tennessee (Dickson County)**

Licensee/Seller: Hayden Roth and Shirley Roth
Applicant/Buyer: Randall Roth

Before the Commission is a request for a transfer of ownership from Hayden and Shirley Roth to Randall Roth. This retail store is located at 1416 Hwy 70 East in Dickson, Tennessee. The purchase price for the business is \$81, 234—the price of the inventory. Financing is based upon a bank loan with First Federal Bank. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit.

Discussion/Action Taken:

Randall Roth was present. Director Elks reviewed the application to the Commissioners. Director Elks recommended approval. Commissioner Mathews made a motion to approve the application. Commissioner Bond seconded the motion and it passed with 3 ayes.

**6. KIMBROUGH TOWERS FINE WINES
Memphis, Tennessee (Shelby County)**

Licensee/Seller: Kathleen E.Z. Patterson
Applicant/Buyer: Kimbrough Towers Wine & Spirits, LLC
Members: Roy Patterson and Kathleen Patterson

Before the Commission is a request to transfer ownership of the above retail store located at 1483 Union Avenue, in Memphis, Tennessee. Mrs. Patterson is the current owner of this business. She desires to incorporate and add her husband as a member of the LLC, with each owning fifty percent of the business. All documentation has been submitted with the exception of the following:

- a. Certificate of Compliance for Roy and Kathleen Patterson.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. Director Elks recommended approval of the application upon submission of the Certificate of Compliances for Roy and Kathleen Patterson. However, Director Elks noted that Ms. Patterson currently has a valid Certificate of Compliance on file as the current owner. Commissioner Mathews made a motion to approve the application. Commissioner Bond seconded the motion. Commissioner Jones stated that he would like to continue this matter to the April Meeting in order to obtain the Certificate of Compliances from Roy and Kathleen Patterson. Commissioner Mathews withdrew his motion to approve the application; Commissioner Bond withdrew her second. Commissioner Mathews made a motion to continue the matter to the April meeting and Commissioner Bond seconded the motion and it was approved with 3 ayes.

**7. RIVERSIDE PACKAGE STORE
Clarksville, Tennessee**

Licensee/Seller: Peggy Taylor
Applicant/Buyer: Beach Liquors, LLC
Members: Katherine and William Beach

Before the Commission is a request for a transfer of ownership from Peggy Taylor to Beach Liquors, LLC, with Katherine and William Beach each owning 50% of the business. Mr. and Mrs. Beach intend to initially invest approximately \$300,000: the purchase price for the business is \$175,000, and the remaining balance will be for existing inventory. All documentation has been submitted with the exception of the following:

- a. Deed to Marie Zachery;
- b. TABC Inspection;
- c. Acknowledgement of the Rules and Regulations; and
- d. Amendment of the Contract to Purchase to reflect Beach Liquors, LLC as the purchaser—not Beach Oil Company, Inc.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. Director Elks recommended approval of the application since all have documentation has been submitted since the submission of the Agenda. Commissioner Mathews made a motion to approve the application. Commissioner Bond seconded the motion and it was approved with 3 ayes.

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- 3. WINERY**
- 4. SPECIAL OCCASION LICENSES**
- 5. CONSUMER EDUCATION SEMINAR LICENSES**
- 6. PERSONNEL** – Director Elks stated that the staff had hired two (2) new agents. James Cobble, Special Agent 1, was hired in the Greeneville office and Misti Crain, Special Agent 1 was hired in the Johnson City office. Director Elks stated they would be interviewing for two (2) agent vacancies in the Chattanooga and Memphis offices. Director Elks stated that the TABC annual Inservice Conference will be held in Cookeville from May 9 thru 13, 2005.
- 7. BUDGET**
- 8. CONSENT ORDERS**
- 9. PENDING MATTERS LIST**
- 10. MISCELLANEOUS** – Commissioner Jones directed the staff due to the poor quality of the tapes of the meetings, to explore and replace the electronic system. Director Elks stated that the staff is looking into some type of amplification for the Commissioners. Director Elks also stated that the staff is looking for some type of computer for the just the use of the Commission Meeting, i.e. Pro-Tools or Fruit Loops software, where the recording of the voices will be directly to the computer so there will not be the outside noises. The recording devices will not be done by next month, but the amplification hopefully will be done by next month.

A. CAESAR’S WINE & LIQUORS
Memphis, Tennessee (Shelby County)

Licensee: Kardoush, LLC
Members: Charles and Michael Kardoush

M & J’s Houston Levee Wine and Spirits (“Opponent”) has filed a motion to amend/correct the minutes of the January 18, 2005 Commission meeting related to the license issued to Caesar’s Wine and Liquors. Opponent states in its motion that the TABC Executive Director made a motion to approve the application, but the minutes reflect the Chairman of the Commission made the motion. Opponent makes a further motion for the Commission to reconsider the granting of the retail license to Caesar’s Wines & Liquors because the City of Memphis has sought a stay of the Chancery Court’s decision pending the appeal. Attorney for the Licensee has filed a response.

Discussion/Action Taken:

Commissioner Mathews recused himself from this matter stating that a potential conflict existed, and did not participate in any of the discussion regarding this matter. David Wade, attorney for Caesar's Wine & Liquors and Michael Kardoush, were present and Mr. William J. Haynes, III, attorney for M & J's Houston Levee Wine & Spirits. Mr. Haynes asked the Commission to hear the matter again in order to amend the Minutes of the January meeting. Mr. Haynes stated that he believed that Director Elks made a motion to approve the application of Caesar's Wine & Liquors. Commissioner Bond stated that she would like to hear the tape and the Chairman concurred that he would like to hear the tape also. After listening to the tape of the Minutes of the January meeting, it was determined that the Chairman made the motion and Commissioner Bond seconded the motion. Chairman Jones made a motion to deny the M & J's Houston Levee Wine & Spirits motion to amend the Minutes of the January meeting. Commissioner Bond seconded the motion and it was passed with 2 ayes.

Director Elks stated that Commissioner Mathews is now back on the record.

11. DATE OF NEXT MEETING – April 21 & May 19, 2005

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman